

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

JIMMY L. COLLINS,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:11-0264
)	Judge Trauger
MORTGAGE ELECTRONIC REGISTRATION)	
SYSTEMS, INC., MERSCORP, collectively as)	
MERS, WILSON AND ASSOCIATES, PLLC,)	
SHELLIE WALLACE, Trustee, and)	
CITI MORTGAGE, INC.,)	
)	
Defendants.)	

TEMPORARY RESTRAINING ORDER

A hearing was held on March 23, 2011 on the *pro se* plaintiff's Motion For *Ex Parte* Temporary Restraining Order And Preliminary Injunction (Docket No. 2). The *pro se* plaintiff appeared in person; Robert Moss of the Brentwood, Tennessee branch of Wilson & Associates, PLLC, appeared telephonically on behalf of the defendants.

The plaintiff seeks to temporarily restrain the foreclosure sale on his home located at 2137 Erin Lane, Mt. Juliet, Tennessee, which is scheduled for March 30, 2011.


The closing papers for the plaintiff's loan, executed on July 31, 2008, show that the "Lender" is Mortgage Investors Group of Knoxville, Tennessee. The Trustee on the Deed of Trust is Charles E. Tonkin, II, and that same document lists Mortgage Electronic Registration Systems, Inc. ("MERS") as the "beneficiary" acting "solely as nominee for Lender. . .and Lender's successors and assigns." (Docket No. 1, Ex. A) The Notice of Trustee's sale, on the other hand, states that an agent of "Successor Trustee, Shellie Wallace of Wilson & Associates, PLLC," will conduct the foreclosure sale. Shellie Wallace is purportedly the "Successor

Trustee” to Charles E. Tonkin, II, who is listed as “Trustee for Mortgage Electronic Registration Systems, Inc. . . . acting solely as a nominee for Mortgage Investors Group and Mortgage Investors Groups Successors and Assigns.” (Docket No. 1, Ex. F) In a letter to the plaintiff from Wilson & Associates, dated March 14, 2011, the law firm states that its client is CitiMortgage (*Id.*), although apparently no paper work has been furnished to plaintiff transferring the note to CitiMortgage. These circumstances, coupled with the fact that there is a multidistrict litigation proceeding pending entitled *In Re: Mortgage Electronic Registration Systems (MERS) Litigation*, MDL No. 2119, apparently questioning the authority of MERS in connection with foreclosure sales, raises sufficient questions in the court’s mind about the legitimacy of this foreclosure proceeding.

For these reasons, it is hereby **ORDERED** that a temporary restraining order is hereby **ISSUED**, conditioned upon the posting by the plaintiff of a \$25 cash bond with the Clerk’s Office, restraining the foreclosure sale of the plaintiff’s property located at 2137 Erin Lane, Mt. Juliet, Tennessee, on March 30, 2011, as scheduled, or at any other time, pending further order of the court. This restraining order shall expire fourteen (14) days from its issuance, unless converted into a preliminary injunction by the judge to whom this case is assigned, Chief Judge Todd Campbell. The parties should contact the chambers of Chief Judge Campbell in order to schedule a hearing on the plaintiff’s request for a preliminary injunction.

It is so **ORDERED**.

ENTER this 23rd day of March 2011.



ALETA A. TRAUGER
U.S. District Judge

Issued at 11:53 a.m. on March 23, 2011.